

STATEMENT OF REASONS (FROM TRANSCRIPT)

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THE COURT: Mr. Scott, stand, please.

A couple of things I want to point out in imposing this sentence. Mr. Scott was convicted for possessing a firearm. The evidence, however, that led to -- or the events that preceded the search of his home included a phone call he made to his home from a jail or a house of correction, I can't recall. So the interesting part of this case for me is that this crime, possession of this firearm, first thing I observe is that it was committed while he was already in incarceration because he was convicted on the theory of constructive possession of this firearm. So the crime is being committed even as he is incarcerated.

The second point I'd make is that based on the conversation that Mr. Scott had with his sister, one could infer, and I do infer, that he had at one point multiple firearms. He was in possession of a shotgun, but his discussion was about multiple firearms, "these things," and described this firearm in particular detail as one of more than one firearm. So the offense level does not take into account that there are likely to have been other firearms.

Now, the notion that a person commits the crime in a place of incarceration as he is leaving, this crime was committed in order to hide these firearms or this firearm from

1 probation people who are coming to inspect the premises, so
2 Mr. Scott was intending to go home where he would have these
3 firearms. That speaks to a very strong need to protect the
4 public, a sentence that provides a very strong need to protect
5 the public.

6 Mr. Scott's record suggests a very strong need to
7 protect the public. I read the whole history, the DYS reports,
8 and they speak of a man who is -- well, I, frankly, say
9 incorrigible. That's what I read in this. And it's hard to
10 understand this, because, unlike most young men who appear in
11 this court, Mr. Scott had advantages: an in-tact family, a
12 mother, father in a home with advantages. That's not what I
13 usually see here. And how Mr. Scott can come off the rails is
14 hard to understand. And come off the rails he did. The record
15 here is episodes of violence, one episode of drugs, and six or
16 so of violence, including assault on a police officer, assault
17 with a dangerous weapon, I believe, with a knife. And as I
18 say, I am driven by the notion that this crime is committed
19 while he's in incarceration preparing to leave.

20 The statutory minimum sentence for this crime is 15
21 years, and as Ms. Gershengorn had said, this is what would
22 happen if you just barely had the predicates for the Armed
23 Career Criminal enhancement, but Mr. Scott has 18 criminal
24 history -- excuse me, 21 criminal history points, 18 without
25 adding the ones that are based on the time of the crime in

1 relation to previous convictions and sentences. So Mr. Scott
2 would be in Criminal History Category VI under any
3 circumstances.

4 So I don't think Mr. Scott is a person who
5 qualifies for the minimum, because the minimum is likely
6 anybody who is an Armed Career Criminal, no matter how minimal
7 the predicate offenses were, minimal in terms of the factual
8 circumstances.

9 I think Ms. Gershengorn had it right when she
10 described Mr. Scott's record, that's the record I see, and I
11 think that the guidelines have it right when they establish the
12 range here. So I'm going to impose the guideline sentence at
13 the low end of the guidelines.

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